Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GREG GANGITANO

Appeal No. 2001-0605
Application No. 08/811,827

HEARD: August 14, 2002

Before THOMAS, JERRY SMITH, and RUGGIERO, Administrative Patent Judges.
RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-3 and 5-12, which are all of the claims pending in the present application. Claim 4 has been canceled.

The claimed invention relates to the displaying on the monitor of a satellite television receiver system a visual indication of the received signal strength of a satellite television signal. More particularly, the display signal is automatically generated

whenever the received signal strength falls below a predetermined threshold.

Claim 1 is illustrative of the invention and reads as follows:

1. A home satellite television receiver, comprising:

circuitry configured to detect a received signal strength of a satellite television signal received at an antenna and to determine whether said received signal strength is above a threshold; and

circuitry configured to automatically generate a visual indication that said received signal strength is below said threshold for display on a television coupled to said circuitry configured to detect.

The Examiner relies on the following prior art:

Omoto et al. (Omoto) 4,935,814 Jun. 19, 1990

Claims 1, 2, 5-7 and 9-12 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by Omoto. Claims 3 and 8 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Omoto.

Rather than reiterate the arguments of Appellant and the Examiner, reference is made to the Briefs[1] and Answer for the respective details.

[1] The Appeal Brief was filed October 29, 1999 (Paper No. 8). In response to the Examiner's Answer dated January 19, 2000, (Paper No. 9), a Reply Brief was filed March 20, 2000 (Paper No. 10), which was acknowledged and entered by the Examiner in the communication dated March 30, 2000 (Paper No. 11).

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the Examiner and the evidence of anticipation and obviousness relied upon by the Examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellant's arguments set forth in the Briefs along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the Omoto reference does not fully meet the invention as set forth in claims 1, 2, 5-7 and 12, but we reach the opposite conclusion in regard to Omoto with respect to claims 9-11. We are also of the view that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 3 and 8. Accordingly, we affirm-in-part.

We consider first the rejection of claims 1, 2, 5-7 and 9-12 under 35 U.S.C. § 102(b) as being anticipated by Omoto. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing

structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

With respect to independent claims 1 and 5, the Examiner attempts to read the various limitations on the disclosure of Omoto. In particular, the Examiner directs attention (Answer, page 3, which references the final Office action, paper no. 4) to the illustration in Figure 1 of Omoto along with the accompanying description beginning at column 1, line 40 of Omoto.

Appellant's arguments in response assert a failure of Omoto to disclose every limitation in each of independent claims 1 and 5 as is required to support a rejection based on anticipation. After reviewing the Omoto reference in light of the arguments of record, we are in general agreement with Appellant's position as expressed in the Briefs.

We note initially that we do not find to be persuasive Appellant's contention (Brief, pages 3 and 4; Reply Brief, page 2) that, in contrast to the claimed invention in which a determination is made whether the received signal strength of a satellite

television signal exceeds a threshold, Omoto, at best, detects whether a noise component is above a threshold. In our view, the broadest reasonable interpretation of the language of independent claim 1 and 5 would include an interpretation that a noise signal component of a received signal is "a" received signal whose strength is related to a threshold value as in Omoto. Further, in contradistinction to Appellant's arguments, the noise component signal in Omoto is superposed on the video signal and displayed on a television screen to provide an indication of received signal quality. (Omoto, column 7, lines 29-42).

Despite the above misgivings with Appellant's arguments, we do find ourselves in agreement with Appellant's further assertion (Brief, page 4; Reply Brief, page 2) to the effect that, regardless of any suggestion of a threshold value determination in Omoto, there is no teaching of any relationship between such threshold determination and the conditions under which a signal strength visual indicator is displayed on a televison screen. In this regard, our interpretation of the disclosure of Omoto coincides with that of Appellant, i.e., while a thresholding operation is performed on a received signal (noise component) in Omoto by use of limiting amplifier to improve the linearity of a displayed signal quality indicator, such thresholding operation has no impact on

when and under what conditions a visual indicator is displayed. In other words, Omoto has no teaching or suggestion of automatically displaying a visual indicator that received signal strength is below a threshold (appealed claim 1) or allowing normal viewing when signal strength is above a threshold and automatically displaying an indicator when signal strength is below a threshold (appealed claim 5).

In view of the above discussion, since all of the claim limitations are not present in the disclosure of Omoto, we do not sustain the Examiner's 35 U.S.C. § 102(b) rejection of independent claims 1 and 5, nor of claims 2, 6, 7, and 12 dependent thereon.

Turning to a consideration of the Examiner's 35 U.S.C. § 102(b) rejection of claims 9-11 we note that, while we found Appellants' arguments to be persuasive with respect to the rejection of claims 1, 2, 5-7, and 12 discussed supra, we reach the opposite conclusion with respect to claims 9-11. These claims are directed to the automatic display of a signal strength indicator as an antenna alignment aid during initial set-up. We agree with the Examiner (Answer, page 5) that Omoto provides a clear disclosure (column, 1, lines 8-14; column 4, lines 45-47; column 7, lines 29-45) of displaying a signal strength indicator in the form of a bar graph to aid antenna alignment during initial installation.

Further, contrary to Appellant's contention, we find nothing in Omoto which would indicate that the visual signal strength display is anything other than "automatic" as claimed. Accordingly, the Examiner's 35 U.S.C. § 102(b) rejection of claims 9-11 based on Omoto is sustained.

Lastly, we consider the 35 U.S.C. § 103(a) rejection of claims 3 and 8 based on Omoto, and we do not sustain the Examiner's obviousness rejection of these claims. In addressing the language of these claims which specify that the displayed visual indication is a text message, the Examiner sets forth a line of reasoning (final Office action, paper no. 4, pages 4 and 5) that asserts the obviousness to the skilled artisan of providing a textual display. Dependent claims 3 and 8, however, are respectively dependent on independent claims 1 and 5 which set forth the feature of a threshold dependent automatic display of a signal strength indicator, a feature which, from our discussion supra, we found lacking in Omoto.

In summary, with respect to the Examiner's 35 U.S.C. § 102(b) rejection of the appealed claims, we have sustained the rejection of claims 9-11, but have not sustained the rejection of claims 1, 2, 5-7, and 12. We have also not sustained the Examiner's 35 U.S.C. § 103(a) rejection of claims 3 and 8. Therefore, the

Examiner's decision rejecting claims 1-3 and 5-12 is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

JAMES D. THOMAS Administrative Patent Judge	)
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